

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

**I. (a) PLAINTIFFS**

MICHAEL BOLTON and CYNTHIA BOLTON

(b) County of Residence of First Listed Plaintiff \_\_\_\_\_

(c) Attorney's (Firm Name, Address, Telephone Number and Email Address)

Craig Thor Kimmel, Esquire  
Kimmel & Silverman, P.C.  
30 E. Butler Pike  
Ambler, PA 19002  
(215) 540-8888

**DEFENDANTS**

NCO FINANCIAL SYSTEMS, INC.

County of Residence of First Listed Defendant \_\_\_\_\_

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- |   | PTF                        | DEF                        |  | PTF                        | DEF                        |
|---|----------------------------|----------------------------|--|----------------------------|----------------------------|
| Citizen of This State                   | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated <i>or</i> Principal Place of Business In This State     | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State                | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated <i>and</i> Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation   | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	<b>PERSONAL INJURY</b> <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability <b>PERSONAL PROPERTY</b> <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 <b>PROPERTY RIGHTS</b> <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark <b>SOCIAL SECURITY</b> <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) <b>FEDERAL TAX SUITS</b> <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input checked="" type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
<b>REAL PROPERTY</b> <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	<b>CIVIL RIGHTS</b> <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	<b>PRISONER PETITIONS</b> <input type="checkbox"/> 510 Motions to Vacate Sentence <b>Habeas Corpus:</b> <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

**V. ORIGIN**

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

**VI. CAUSE OF ACTION**

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

15 U.S.C SECTION 1692

Brief description of cause:

Fair Debt Collection Practices Act

**VII. REQUESTED IN COMPLAINT:**☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No**VIII. RELATED CASE(S)**

(See instructions):

JUDGE \_\_\_\_\_

DOCKET NUMBER \_\_\_\_\_

Explanation:

DATE

SIGNATURE OF ATTORNEY OF RECORD

01/22/2013

/s/ CRAIG THOR KIMMEL

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

**CASE MANAGEMENT TRACK DESIGNATION FORM**

MICHAEL BOLTON AND CYNTHIA	:	
BOLTON	:	
	:	CIVIL ACTION
v.	:	
	:	NO.
NCO FINANCIAL SYSTEMS, INC.	:	
	:	

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

- (a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )
- (b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )
- (c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)
- (d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )
- (e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )
- (f) Standard Management – Cases that do not fall into any one of the other tracks. ( )

01/22/2013  
Date

Craig Thor Kimmel  
Attorney-at-law

Plaintiffs, Michael & Cynthia Bolton  
Attorney for

215-540-8888  
Telephone

877-788-2864  
FAX Number

kimmel@creditlaw.com  
E-Mail Address

**FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.**

Address of Plaintiff: 400 Greer Avenue, High Point, North Carolina, 27260

Address of Defendant: 507 Prudential Rd., Horsham, PA 19044

Place of Accident, Incident or Transaction: \_\_\_\_\_  
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?  
(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a)) Yes ☐ No ☒

Does this case involve multidistrict litigation possibilities? Yes ☐ No ☒

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?  
Yes ☐ No ☒
4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?  
Yes ☐ No ☒

CIVIL: (Place ☒ in ONE CATEGORY ONLY)

**A. Federal Question Cases:**

1. ☐ Indemnity Contract, Marine Contract, and All Other Contracts
2. ☐ FELA
3. ☐ Jones Act-Personal Injury
4. ☐ Antitrust
5. ☐ Patent
6. ☐ Labor-Management Relations
7. ☐ Civil Rights
8. ☐ Habeas Corpus
9. ☐ Securities Act(s) Cases
10. ☐ Social Security Review Cases
11. ☒ All other Federal Question Cases  
(Please specify) 15 U.S.C. § 1692

**B. Diversity Jurisdiction Cases:**

1. ☐ Insurance Contract and Other Contracts
2. ☐ Airplane Personal Injury
3. ☐ Assault, Defamation
4. ☐ Marine Personal Injury
5. ☐ Motor Vehicle Personal Injury
6. ☐ Other Personal Injury (Please specify)
7. ☐ Products Liability
8. ☐ Products Liability — Asbestos
9. ☐ All other Diversity Cases  
(Please specify) \_\_\_\_\_

**ARBITRATION CERTIFICATION**

(Check Appropriate Category)

I, Craig Thor Kimmel, counsel of record do hereby certify:

- ☐ Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;
- ☐ Relief other than monetary damages is sought.

DATE: 01/22/2013

/s/ Craig Thor Kimmel  
Attorney-at-Law

57100

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 01/22/2013

/s/ Craig Thor Kimmel  
Attorney-at-Law

57100

Attorney I.D.#

1                                   **UNITED STATES DISTRICT COURT**  
2                                   **FOR THE**  
                                  **EASTERN DISTRICT OF PENNSYLVANIA**

3   MICHAEL BOLTON AND CYNTHIA       )  
4   BOLTON,                                )  
  )  
5                           Plaintiffs       )   **Case No.:**  
  )  
6                   v.                        )   **COMPLAINT AND DEMAND FOR**  
  )   **JURY TRIAL**  
7   NCO FINANCIAL SYSTEMS, INC.,       )  
  )   **(Unlawful Debt Collection Practices)**  
8                           Defendant       )  
\_\_\_\_\_

9   **COMPLAINT**

10           MICHAEL BOLTON AND CYNTHIA BOLTON (“Plaintiffs”), by and through their  
11   attorneys, KIMMEL & SILVERMAN, P.C., allege the following against NCO FINANCIAL  
12   SYSTEMS, INC. (“Defendant”):

13   **INTRODUCTION**

14           1.       Plaintiffs’ Complaint is based on the Fair Debt Collection Practices Act, 15  
15   U.S.C. § 1692 *et seq.* (“FDCPA”) and the Telephone Consumer Protection Act, 47 U.S.C. §227  
16   *et seq.* (“TCPA”).  
17

18   **JURISDICTION AND VENUE**

19           2.       Jurisdiction of this court arises pursuant to 15 U.S.C. §1692k(d), which states  
20   that such actions may be brought and heard before “any appropriate United States district court  
21   without regard to the amount in controversy,” and 28 U.S.C. §1331 grants this court original  
22   jurisdiction of all civil actions arising under the laws of the United States.

23           3.       Defendant’s headquarters are in the Commonwealth of Pennsylvania; therefore,  
24   personal jurisdiction is established.

25           4.       Venue lies in this district pursuant to 28 U.S.C. §1391(b).

**PARTIES**

5. Plaintiffs are each a natural person residing in High Point, North Carolina 27260.

6. Plaintiff MICHAEL BOLTON is a “consumer” as that term is defined by 15 U.S.C. §1692a(3).

7. In the alternative, Plaintiff MICHAEL BOLTON is a person granted a cause of action under the FDCPA. See 15 U.S.C. §1692k(a) and Weinrich v. Cole, 2000 U.S. Dist. LEXIS 18687 (E.D. Pa. Dec. 22, 2000).

8. Additionally, Plaintiff CYNTHIA BOLTON is a person granted a cause of action under the FDCPA. See 15 U.S.C. §1692k(a) and Weinrich v. Cole, 2000 U.S. Dist. LEXIS 18687 (E.D. Pa. Dec. 22, 2000).

9. Defendant is a national debt collection company with its corporate headquarters located at 507 Prudential Road, Horsham, Pennsylvania 19044.

10. Defendant collects, and attempts to collect, consumer debts incurred, or alleged to have been incurred, for personal, family or household purposes on behalf of creditors and debt buyers using the U.S. Mail, telephone and/or internet.

11. Defendant is a “debt collector” as that term is defined by 15 U.S.C. §1692a(6), and repeatedly contacted Plaintiffs in an attempt to collect a debt.

12. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

**FACTUAL ALLEGATIONS**

13. At all relevant times, Defendant was attempting to collect an alleged consumer debt.

1           14.     The alleged debt at issue arose out of transactions, which were primarily for  
2 personal, family, or household purposes.

3           15.     Beginning in or before August 2012, and continuing through December 2012,  
4 Defendant continuously and repetitively contacted Plaintiffs on their home and cellular  
5 telephones allegedly to collect a debt.

6           16.     Defendant contacted Plaintiffs on their cellular telephone through the use of an  
7 automated dialing system in an attempt to coerce payment of the debt, with the intent to annoy,  
8 abuse, or harass Plaintiffs.

9           17.     Plaintiffs did not consent to the placement of telephone calls to their cellular  
10 telephone by Defendant or the creditor that placed the account for collection with Defendant.

11           18.     During this time, Defendant called Plaintiffs' home and cellular telephones, on  
12 average, two (2) to three (3) times a day, causing them to receive more than ten (10) collection  
13 calls a week.

14           19.     Many of the collection calls Plaintiffs received originated from, but are not  
15 limited to, the following number: (800) 477-1827, which the undersigned has confirmed is a  
16 telephone number belonging to Defendant.

17           20.     When contacting Plaintiffs on their home and cellular telephones, Defendant  
18 contacted them at times when it was inconvenient for them to receive collection calls,  
19 specifically calling them before 8:00 a.m. and after 9:00 p.m.

20           21.     Defendant's sole purpose in contacting Plaintiffs before 8:00 a.m. and after 9:00  
21 p.m., was to annoy, abuse and harass Plaintiffs.

22           22.     Most recently, Defendant contacted Plaintiffs on December 6, 2012.  
23  
24  
25

1           23.     Lastly, in its communications with Plaintiff Michael Bolton, Defendant's  
2 collectors threatened to take legal action against him and to freeze his banking accounts if he  
3 did not make payment on the alleged debt.

4           24.     At the time Defendant threatened to freeze Plaintiff Michael Bolton's banking  
5 accounts, Defendant not only did not have the legal authority to do so, but did not intend to take  
6 such action.

7           25.     Also, at the time Defendant threatened to take legal action against Plaintiff  
8 Michael Bolton, Defendant did not intend to take such action.

9           26.     Defendant's actions in attempting to collect a debt were harassing, abusive, and  
10 annoying.

11           27.     Defendant acted in an abusive, harassing, unconscionable and unfair manner by  
12 communicating with Plaintiffs at times when it was inconvenient for them to receive collection  
13 calls.

14           28.     Defendant acted in an abusive, harassing, unconscionable and unfair manner by  
15 causing Plaintiffs telephone to ring or engaging Plaintiffs in telephone conversation repeatedly  
16 or continuously with the intent to annoy, abuse and/or harass Plaintiffs.

17           29.     Defendant acted in a false, deceptive, misleading and unfair manner by  
18 threatening to freeze banking accounts when it cannot legally take that action or did not intend  
19 to take such action.

20           30.     Defendant acted in a false, deceptive, misleading and unfair manner by  
21 threatening to take any legal action that cannot legally be taken or that is not intended to be  
22 taken.

1           31. Defendant acted in a false, deceptive, misleading and unfair manner by the use of  
2 any unfair or unconscionable means to collect or attempt to collect any debt.

3           32. Defendant knew or should have known that its actions violated the FDCPA.

4           33. Furthermore, Defendant should have taken the steps necessary to bring their  
5 employee's actions within compliance of the FDCPA and TCPA, but neglected to do so and  
6 failed to adequately review those actions to insure compliance with said laws.

7                   **DEFENDANT VIOLATED THE FAIR DEBT COLLECTION PRACTICES ACT**  
8                   **COUNT I**

9           34. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C.  
10 §§1692d and 1692d(5).

11                   a. A debt collector violates §1692c(a)(1) of the FDCPA by  
12 communicating with a consumer in connection with the collection of  
13 any debt at any unusual time or place or a time or place known or  
14 which should be known to be inconvenient to the consumer. In absence  
15 of knowledge of circumstances to the contrary, a debt collector shall  
16 assume that the convenient time for communicating with a consumer is  
17 after 8:00 a.m. and before 9:00 p.m., local time at the consumer's  
18 location.

19                   b. Here, Defendant violated §1692c(a)(1) of the FDCPA when it called  
20 Plaintiffs before 8:00 a.m. and after 9:00 p.m.

21                   **COUNT II**

22           35. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C.  
23 §§1692d and 1692d(5).

24                   a. Section 1692d of the FDCPA prohibits a debt collector from engaging  
25



1 in conduct the natural consequence of which is to harass, oppress, or  
2 abuse any person in connection with the collection of a debt.

3 b. Section 1692d(5) of the FDCPA prohibits debt collectors from causing  
4 a telephone to ring or engaging any person in telephone conversation  
5 repeatedly or continuously with the intent to annoy, abuse, or harass  
6 any person at the called number.

7 c. Here, Defendant violated §§1692d and 1692d(5) of the FDCPA by  
8 continuously calling Plaintiffs on their home and cellular telephones  
9 two (2) to three (3) times a day, causing them to receive at least ten (10)  
10 collection calls a week, with the intent to harass or annoy Plaintiffs.  
11

12 **COUNT III**

13 36. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C.  
14 §§1692e, 1692e(4) and 1692e(5).

15 a. A debt collector violates §1692e of the FDCPA by using false,  
16 deceptive or misleading representations or means in connection with  
17 the collection of any debt.

18 b. A debt collector violates §1692e(4) of the FDCPA by representing or  
19 implicating that nonpayment of any debt will result in the arrest or  
20 imprisonment of any person or the seizure, garnishment, attachment, or  
21 sale of any property or wages of any person unless such action is lawful  
22 and the debt collector or creditor intends to take such action.

23 c. A debt collector violates §1692e(5) of the FDCPA by threatening to  
24 take any action that cannot legally be taken or that is not intended to be  
25

1 taken.

2 d. Here, Defendant violated §§1692e and 1692e(4) of the FDCPA by  
3 threatening to freeze Plaintiff Michael Bolton's bank accounts when it  
4 did not have the legal authority to take the action it threatened and did  
5 not intend to take the action it threatened.

6 e. Here, Defendant violated §§1692e and 1692e(5) of the FDCPA by  
7 threatening to take legal action against Plaintiff Michael Bolton when it  
8 did not intend to take the action it threatened.  
9

10 **COUNT IV**

11 37. Defendant's conduct, as detailed in the preceding paragraphs, violated 15 U.S.C.  
12 §1692f.

13 d. A debt collector violates §1692f of the FDCPA by using unfair and  
14 unconscionable means to collect or attempt to collect any debt.

15 e. Here, Defendant violated §1692f of the FDCPA by using unfair and  
16 unconscionable means to collect or attempt to collect a debt, including  
17 relentlessly contacting Plaintiffs with an automatic dialer in an attempt  
18 to collect a debt.  
19

20 **DEFENDANT VIOLATED THE TELEPHONE CONSUMER PROTECTION**  
21 **ACT**  
22 **COUNT V**

23 38. Plaintiffs hereby incorporate all facts and allegations specified in all preceding  
24 paragraphs, by reference as if fully set forth at length.

25 39. The Telephone Consumer Protection Act ("TCPA"), 47 U.S.C. §227 *et seq.*,  
prohibits the use of an automatic telephone dialing system or a pre-recorded or artificial voice to

1 place telephone calls to an individual on his or her cellular telephone. See 47 U.S.C.  
2 §227(b)(1)(A)(iii).

3 40. A person may bring a private cause of action “based on a violation of this  
4 subsection or the regulations prescribed under this subsection to enjoin such violation.” See 47  
5 U.S.C. §227(b)(3)(A).

6 41. Also, a person is entitled to bring “an action to recover for actual monetary loss  
7 from such a violation, or to receive \$500 in damages for each such violation, whichever is  
8 greater.” See 47 U.S.C. §227(c)(5)(B).

9 42. The Court, in its discretion, is authorized to award up to three (3) times the actual  
10 damages sustained by a person for violations of the TCPA. See 47 U.S.C. §227(c)(5).

11 43. Defendant repeatedly and regularly placed non-emergency, automated calls to  
12 Plaintiffs’ cellular telephone, leaving several messages using a pre-recorded or artificial voice.

13 44. Defendant did not have Plaintiffs’ express consent prior to contacting them on  
14 their cellular telephone using an automatic telephone dialing system or pre-recorded or artificial  
15 voice.

16 45. Defendant’s conduct violated §227(b)(1)(A)(iii) of the TCPA by making any call  
17 using any automatic telephone dialing system or an artificial prerecorded voice to a telephone  
18 number assigned to a cellular telephone service.

19 WHEREFORE, Plaintiffs, MICHAEL BOLTON AND CYNTHIA BOLTON,  
20 respectfully pray for a judgment as follows:

- 21
- 22 a. All actual damages suffered pursuant to 15 U.S.C. § 1692k(a)(1);
  - 23 b. Statutory damages of \$1,000.00 for the violation of the FDCPA pursuant to
  - 24 15 U.S.C. § 1692k(a)(2)(A);
  - 25

- 1 c. Statutory damages of \$500.00 for each violation of the TCPA, pursuant to 47  
2 U.S.C. § 227(c)(5)(B);  
3 d. All reasonable attorneys' fees, witness fees, court costs and other litigation  
4 costs incurred by Plaintiffs pursuant to 15 U.S.C. § 1693k(a)(3); and  
5 c. Any other relief deemed appropriate by this Honorable Court.

6 **DEMAND FOR JURY TRIAL**

7 PLEASE TAKE NOTICE that Plaintiffs, MICHAEL BOLTON AND CYNTHIA  
8 BOLTON, demand a jury trial in this case.

9 RESPECTFULLY SUBMITTED,

10 DATED: 01/22/2013

KIMMEL & SILVERMAN, P.C.

11 By: /s/ Craig Thor Kimmel  
12 Craig Thor Kimmel, Esquire  
13 PA Attorney Id. No. 57100  
14 30 E. Butler Pike  
15 Ambler, PA 19002  
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